

TUKWILA MUNICIPAL COURT
LOCAL RULES

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TMCLR 1.7
ADOPTION OF
LOCAL RULES

These rules are adopted pursuant to GR7, CrRLJ 1.7 and IRLJ 1.3.

TMCLR 1.8
TITLE OF RULES

These rules may be known and cited as the Tukwila Municipal Court Local Rules and Tukwila Municipal Court Local Infraction Rules and shall be referred to as TMCLR and TMCLIR.

TMCLR 2.4
COMMISSIONERS

The court may employ judicial officers as commissioners, who shall serve at the pleasure of the Presiding Judge. He/she must be appointed in accordance with RCW 3.50.075 and TMC 2.68.040(B). Commissioners shall hear infraction cases as provided by the infraction rules for courts of limited jurisdiction and RCW 46.63, or any law amendatory thereof. Commissioners shall also perform such other duties and hear other matters as may be assigned to them by the Presiding Judge of the Court.

TMCLR 3.1
PRE-TRIAL HEARINGS

A. General: Unless otherwise ordered by the court in a specific case for good cause, all cases in which a defendant enters a plea of not guilty shall be set for a pre-trial hearing. The pre-trial hearing shall provide an opportunity for negotiation between the parties. The parties shall confer in good faith regarding any agreed disposition prior to trial. The defendant shall be required to attend the pre-trial hearing unless excused by the court. Failure to attend may result in the issuance of a bench warrant and/or forfeiture of any bond. In the event of a disposition, the parties shall execute the appropriate documents for the judge to consider the matter on the record. Pre-trial hearings should be held no later than 30 days after arraignment unless otherwise approved by the court.

B. Scheduling: The court shall assign dates and give written notice to the parties for future motion hearings and trial at the time of the pre-trial conference and shall, in so far as is reasonably possible, schedule those hearings in consultation with both parties. Other factors, such as witness availability, shall also be considered.

C. Motions: In cases which proceed to trial, the parties shall identify with specificity all motions and counsel may be required to articulate on the record the basis for any motion. All rulings made at the pre-trial hearing or subsequent motions hearing(s) shall be binding on the parties and shall not be relitigated at trial. Any motion not identified at pre-trial shall be deemed waived unless otherwise allowed by the court. Counsel shall identify only those motions for which there is a good faith belief that the motion is well grounded in fact and is warranted by existing law or a good faith argument for the extension, modification or reversal of existing law. Counsel shall comply with CrRLJ 3.6.

D. Readiness: A jury call/readiness hearing will be scheduled in all cases proceeding to jury unless specifically waived by the court in a particular case for good cause shown. This calendar will be held during the week approximately one week prior to the scheduled jury trial or as otherwise set by the court. The defendant shall be required to attend this hearing unless excused by the court. Failure to attend the jury call/readiness hearing may result in the issuance of a bench warrant and/or forfeiture of bond. Both parties must have their witnesses present at the readiness hearing. This requirement does not apply to the reporting police officers, expert witnesses, or those specifically excused by the court. Absent a showing of good cause for their absence, witnesses who do not appear at the readiness calendar may be stricken from the witness list. A confirmation of readiness constitutes an assurance that the parties will be ready to begin jury selection immediately on the morning of trial and submit jury instructions at the call of the jury calendar.

TMCLR 3.2
RELEASE OF THE ACCUSED

A. Bail: Tukwila Municipal Court will follow the bail schedule set forth in Washington Court Rule CrRLJ 3.2 (o) with the following exceptions:

| | | |
|--------------|---------------------------------|------------|
| 9A.88.030 | Prostitution | \$1,000.00 |
| 9A.88.090 | Permitting Prostitution | \$1,000.00 |
| 9A.88.110 | Patronizing a Prostitute | \$1,000.00 |
| TMC 8.50.040 | Prostitution Loitering | \$1,000.00 |
| TMC 8.30.040 | Failure to Abide by Court Order | \$1,000.00 |

Bail for unscheduled misdemeanors shall be \$250.00 unless otherwise set by statute or ordinance. Bail for unscheduled gross misdemeanors shall be \$500.00 unless otherwise set by statute or ordinance.
Bail shall not be set for accused persons arrested for new

offenses involving domestic violence, violation of an anti-harassment order or stalking except at the preliminary appearance or arraignment.

B. Conditions of Release: The court may impose conditions of release pending trial to include, but not limited to, a No Contact Order, Ignition Interlock or any other conditions that are appropriate and are set forth in CrRLJ 3.2 (a), (b) and (c).

[Adopted effective January 1, 1999; amended effective September 1, 2006]

TMCLR 3.3
AUTHORIZATION
FOR CONTINUANCE
OF ARRAIGNMENTS

If a defendant requests a continuance of his or her arraignment date without having to first appear in court, the Clerk of the Court is authorized to continue and reset the arraignment to a date not later than fourteen (14) days after the date on which the arraignment was initially set on the following conditions:

(1) The defendant who is requesting the continuance of the arraignment shall have had no previous warrants issued involving any criminal case for a failure to comply with a court order.

(2) The defendant shall sign a waiver of his/her right to a speedy trial, with that waiver waiving speedy trial rights for a period of at least 90 days from the date of the rescheduled/continued arraignment.

This authorization for a continuance of arraignment is not permitted in cases involving alleged DUI, Malicious Mischief (DV), Violation of a Court Order, Assault 4° (DV), Harassments or any other case where a Protection Order or No Contact Order has been requested or may be issued by the court.

Any other requests for continuance of arraignment-whether for a period of time longer than that authorized herein above or for cases not meeting the above criteria-shall be presented to the court in open session. A written motion for continuance, with notice to the opposing party or counsel for the opposing party, shall be required.

TMCLR 3.4
RECALL OF WARRANTS
AND RESETTING OF CASES

A. If a defendant fails to appear for a hearing before the court and the defendant thereafter complies with each of the below listed requirements and pays an administrative processing fee of \$100.00, the Clerk of the Court shall be ordered and authorized to recall the warrant, or if the warrant has not yet been processed, to not process the warrant, and the Clerk of the Court is further authorized to issue a new notice of hearing for the defendant.

Requirements for Warrant Recall and Rescheduling:

(1) The defendant shall personally appear and provide an explanation for his/her failure to appear for court and provide documentary support if appropriate.

(2) The defendant shall not have had his/her warrant recalled previously in this manner on this particular case.

(3) The Clerk of the Court shall include in the court docket language reflecting the defendant's failure to appear, the defendant's explanation for the failure to appear; and the Clerk of the Court shall insert in the court's file a copy of the documentary support for the reasons for the defendant's failure to appear. If all of the requirements listed above have been met, the Clerk of the Court shall

recall the warrant or shall not process a warrant which has been ordered and not yet issued, and the Clerk of the Court shall issue a new notice of hearing.

B. Warrants shall not be recalled by the Clerk of the Court, nor shall there be a delay in processing warrants unless each of the above requirements have been met, except as otherwise ordered by the court in open session, unless the defendant posts bail according to the court's current bail schedule or the schedule as outlined in CrRLJ 3.2 (m). The court's schedule shall supersede the schedule published at CrRLJ 3.2 (m).

C. This method of recalling warrants and resetting cases shall not apply to Assault 4° (DV), DUI, Malicious Mischief (DV), or Violation of a Court Order or Harassment unless, for good cause shown, approved by the court in writing.

TMCLR 3.6
SUPPRESSION PROCEDURE

A. Pleadings and Determination regarding Hearing: Motions to suppress physical, oral or identification evidence other than motions pursuant to Rule 3.5 shall be in writing supported by an affidavit or document as provided in RCW 9A.72.085 or any law amendatory thereto, setting forth the facts the moving party anticipates will be elicited at a hearing. If there are no disputed facts, the court shall determine whether an evidentiary hearing is required. If the court determines that no evidentiary hearing is required, the court shall set forth its reasons on the record for not conducting an evidentiary hearing.

B. Time Limits: Pleadings required for compliance with this rule shall be submitted in writing to the court and the non-moving party at least 14 days in advance of the request for a 3.6 hearing. Responsive pleadings may be submitted within 7 days from date of receipt of the motion for a 3.6 hearing to the moving party and the court. Failure to provide responsive pleadings shall be considered a waiver of the right to file responsive pleadings.

C. Decision: The court, on the record, shall state findings of fact and conclusions of law based upon the pleadings submitted pursuant to TMCLR 3.6B.

TMCLR 4.1
ARRAIGNMENTS AND
CONTINUANCES OF ALL MATTERS OTHER THAN ARRAIGNMENT

A. Arraignment: Arraignments shall be in accordance with CrRLJ 4.1 and 4.2. A lawyer may, pursuant to CrRLJ 4.1(d), enter an appearance on behalf of a client except in cases in which the docket or charging document states that one or more of the charges involves DUI, Assault 4° (DV), Harassment, Violation of an Antiharassment/No Contact Order, Malicious Mischief (DV), Stalking or Harassment, whereupon defendant's presence is mandatory and cannot be waived.

B. Unless otherwise noted for motion, all requests to continue pretrial hearings, motions, trial dates and/or other final dispositions will require the agreement of both parties before such request will be submitted to the court for review except as provided for in TMCLR 3.3.

TMCLR 4.2
FORFEITURE OF BAIL

Upon the non-appearance of a defendant at the time and place scheduled by the court and warrant of arrest issued, the defendant's bail or bond may be ordered forfeited with or

without further proceedings upon motion of the city attorney or upon the court's own motion. If the necessary witnesses do not appear at the time scheduled by the court, the court may dismiss such action unless a good cause for such non-appearance is shown. A reasonable fee may be imposed against the party whose witnesses failed to appear.

TMCLR 6.1
EVIDENCE-COURT'S
CUSTODY OF EXHIBITS

In a criminal case every exhibit in the court's custody, which is not contraband and for which ownership is not in dispute, shall be returned to the party who produced that exhibit upon motion of that party and expiration of the appeal period. In the event of finding of guilty, for purpose of this rule, the appeal period shall begin on the day of sentencing or deferral of sentencing by the court. Exhibits not withdrawn shall be delivered by the court to the Tukwila Police Department for disposition as abandoned property; or if contraband, for destruction. The court shall not release an exhibit without it being receipted for by the receiving person.

TMCLR 7.1
SENTENCING

The court shall follow the provisions of CrRLJ 7.2.

TMCLR 7.2
RESTITUTION

Where the court orders that a defendant pay restitution, but does not set an amount at the time of disposition, the city attorney shall, within 60 days, file with the court a proposed amount, with documentation in support thereof. The city attorney shall mail to the defendant's last known address or to the defendant's attorney the proposed amount, with copies of the supporting documents. If the defendant wishes to contest the proposed amount, the defendant shall file with the court an objection within 30 days of the date the proposed amount was mailed to the defendant's last known address or to the defendant's attorney. Upon receipt of an objection by the court, the court shall schedule a restitution hearing, and shall send notice to the city attorney and the defendant. If the city attorney does not file a proposed amount within 60 days of disposition, the matter of restitution shall be deemed waived unless otherwise authorized by the court. If the defendant does not object, the proposed amount shall be entered as a judgment. Payment of restitution shall be made through the Clerk of the Court unless otherwise ordered by the court.

TMCLR 8.1
USE OF A COLLECTION
AGENCY AND ASSESSMENT
AS COURT COST OF AMOUNTS
PAID FOR COLLECTION SERVICES

A. The court may use the services of a collection agency for the purposes of collecting unpaid and delinquent penalties on infractions, criminal fines, costs, assessments and forfeitures. The terms and conditions of the contract for collection services shall be between the City of Tukwila and said collection agency, and may be amended as necessary.

B. The collection agency's fee or charge, as set forth in said contract, shall be added by the collection agency as a court cost to the total judgment of the court against each defendant whose account is referred by the court to the collection agency.

C. Nothing in this section shall prevent the court from notifying the Department of Licensing of the defendant's failure to pay a fine and/or costs as ordered by the court.

TMCLR 8.2
PETITIONS FOR
DEFERRED PROSECUTION

Petitions for deferred prosecution must be submitted pursuant to RCW 10.05. Defendants must use the deferred prosecution forms provided by the court. The petition must include the appropriate assessment and treatment plan.

TMCLR 9.1
REQUIREMENT FOR PAYMENT OF ADMINISTRATIVE PROBATION FEES,
INTERPRETER SERVICE FEES,
PUBLIC DEFENDER FEES, AND
JAIL BOOKING FEES

A. If a defendant is found guilty of a criminal violation and sentenced to a suspended, deferred or continued sentence, then the court may impose an administrative probation fee up to the maximum fee permitted under the current state statute.

B. If a defendant is provided with interpreter services during any phase of a criminal proceeding, to include but not limited to arraignment, pre-trial hearing, or post-conviction review, the court, at its discretion, may order recoupment of costs for the interpreter's service.

C. If a defendant is provided a public defender during any phase of a criminal proceeding, the court may order recoupment of costs for public defender services.

D. If a defendant has been confined during any phase of a criminal proceeding by order of the Tukwila Municipal Court, the defendant may be ordered to pay the costs of confinement, not to exceed the cost of each booking fee associated with a case, plus the daily housing cost of the defendant at whatever jail he/she is confined.

TMCLR 10.1
REQUIREMENTS FOR PAYMENT
OF JURY FEES UPON
CANCELLATION OF JURY TRIAL

A. If a defendant who has been charged with a criminal violation in the Tukwila Municipal Court has requested a jury trial, and if that jury trial is summoned and the court has incurred the expense or will incur the expense because the jury has been or will be brought in, and the defendant does not waive his or her right to a jury trial within 48 hours prior to the date for which the jury trial has been scheduled, or otherwise excuses or releases the jury from hearing the case within 48 hours of the date of the scheduled jury trial, the defendant may be responsible for payment to the court in the amount of the costs incurred by the court for jury fee payments and mileage reimbursements, unless the court specifically determines that those fees and costs or the full amount of those fees and costs shall not be paid under the circumstances of the defendant's case.

B. Any such jury fee costs imposed by the court for payment

and reimbursement of jury fees and mileage reimbursement shall be paid by the defendant as a condition of suspended sentence, if any, or as otherwise directed by the court.

TMCLR 10.2
PRESIDING JUDGE

A. The Judge duly appointed as Judge of the Tukwila Municipal Court will be known as the Presiding Judge.

B. The Presiding Judge shall be responsible for the efficient administration of the court. The Presiding Judge shall supervise the preparation and filing of all reports required by statute or rule and shall perform such other duties as may be prescribed by statute, ordinance or rule.

C. The Presiding Judge shall direct the work of the Court Administrator who will have direct supervision over all administrative, non-judicial functions and all other court personnel except that the Presiding Judge shall directly supervise the Commissioner(s), Judge Pro-Tempore(s) and magistrate(s).

TMCLR 10.3
ANTI-HARASSMENT PROTECTION ORDERS

A. Pursuant to RCW 10.14.150, as amended by HB 1296 (2005), the Tukwila Municipal Court may hear and adjudicate petitions for anti-harassment protection orders filed under RCW 10.14.

B. The Tukwila Municipal Court's jurisdiction shall be limited to situations:

- (1) When the alleged acts of unlawful harassment occurred within the Tukwila city limits; or
- (2) When the respondent resides within the Tukwila city limits; or
- (3) When the respondent may be served within the Tukwila city limits if it is the same county or judicial district a respondent resides.

C. The Clerk of the Municipal Court may charge a filing fee in an amount equal to the applicable fee charged by the King County District Court. The Municipal Court Judge has discretion to waive or reduce the filing fee upon a showing of indigence, financial hardship, or other good cause.

[Adopted effective September 1, 2006]

TMCLR 10.6
JURY TRIAL IN CIVIL CASES

RESCINDED RULE - EFFECTIVE SEPTEMBER 1, 2006

TMCLR 12.1
USE OF UNSWORN STATEMENT
IN LIEU OF AFFIDAVIT

A. Unsworn Statement Permitted: Except as provided in section B., whenever a matter is required or permitted to be supported or proved by affidavit, the matter may be supported or proved by an unsworn written statement, declaration, verification, or certificate executed in accordance with RCW 9A.72.085. The certification or

declaration may be in substantially the following form:

I certify (or declare) under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct:

(Date and Place) (Signature)

B. Exceptions: This rules does not apply to writings requiring an acknowledgment, oaths of office, or oaths required to be taken before a special official other than a notary public.

TMCLR 13.1
VIDEO CONFERENCE PROCEEDINGS

A. Criminal: Preliminary appearances as defined by CrRLJ 3.2.1(d), arraignments as defined by CrR 3.4 and 4.1 and CrRLJ 3.4 and 4.1, bail hearings as defined by CrR3.2 and CrRLJ 3.2, and trial settings as defined by CrR 3.3 and CrRLJ 3.3(f), and pre-trial hearings as determined by the court, conducted via video conference in which all participants can simultaneously see, hear, and speak with each other shall be deemed held in open court and in the defendant's presence for the purposes of any statute, court rule or policy. All video conference hearings conducted pursuant to this rule shall be public, and the public shall be able to simultaneously see and hear all participants and speak as permitted by the court. Any party may request an in-person hearing which may, in the court's discretion, be granted.

B. Agreement: Other trial court proceedings including the entry of a Statement of Defendant on Plea of Guilty as defined by CrR 4.2 and CrRLJ 4.2 may be conducted by video conference only by agreement of the parties. The defendant will be deemed to have agreed to voluntarily participate in court proceedings in Tukwila Municipal Court by video conference unless the defendant or counsel for the defendant notifies the court at the time of the proceeding that he/she objects to the proceeding being conducted via video conference. The right to object to video conference proceedings will be deemed waived if not exercised prior to the start of the video conference hearing.

C. Standards for Video Conference Proceedings: The Judge, counsel, all parties, and the public must be able to see and hear each other during proceedings, and speak as permitted by the court. Video conference facilities must provide for confidential communications between attorney and client and security sufficient to protect the safety of all participants and observers. In interpreted proceedings, the interpreter must be located next to the defendant and the proceeding must be conducted to assure that the interpreter can hear all participants.

D. For purposes of video conference proceedings, the facsimile signature(s) of the defendant, counsel, interested parties and the court will be treated as if they were an original signature. This includes all Orders on Judgments & Sentence, No Contact Orders, S.O.A.P. and S.O.D.A. Orders, Time Pay Agreements, and other documents as the court shall determine are appropriate or necessary.

TMCLR 14.1
ZONING, FIRE, BUILDING CODE VIOLATIONS;
INFORMAL AND PRE-TRIAL SETTLEMENT CONFERENCES

Defendants charged with zoning, fire or building code violations or such other classes of cases as the Presiding Judge shall designate, whether civil or criminal, may be required to participate in an informal settlement conference. The Presiding Judge or Commissioner shall preside at said conference and a representative of the

concerned City department shall be present, as well as the defendant/ respondent, unless the presence of a party has been waived, in writing, by the court. If the parties are unable to reach a settlement, the case shall be set for trial.

TMCLIR 1.0
SPEED MEASURING DEVICE:
DESIGN AND CONSTRUCTION CERTIFICATION

Any person who requests production of an electronic speed measuring device expert, and who is thereafter found by the court to have committed the infraction, shall be required to pay the fee charged by the expert as a cost incurred by that party, as provided in RCW 46.63.151.

TMCLIR 2.0
REQUIREMENTS FOR
PAYMENT FOLLOWING
INFRACTION HEARINGS

A. If a defendant who has been charged with a traffic or other infraction filed with the Tukwila Municipal Court is found to have committed that infraction, absent extenuating circumstances, the defendant shall make payment in full of the amount of the penalty at the time of the hearing in which the defendant was found to have committed the infraction.

B. Time payments on infractions will be permitted upon a showing of exceptional and exigent circumstances in court, at the time of the hearing on the contested infraction. Time payments will be at a minimum payment of \$50.00 each month, unless specifically authorized by the Judge or Commissioner. The court's decision to authorize time payments in infraction cases shall be subject to the conditions set at the time of the order authorizing time payments. The court may impose an additional administrative fee for the costs of establishing, monitoring and processing a time pay agreement.

C. Failure to make payment on the penalties on the committed infractions shall be enforceable pursuant to otherwise applicable court rules, state law or relevant administrative regulations.

TMCLIR 3.0
TIME FOR HEARING-
OBJECTIONS TO DATE

A defendant who objects to the hearing date set by the court pursuant to IRLJ 2.6, shall file with the court and serve upon the city attorney a written motion for a new speedy hearing date. Such motion shall be filed and served no later than 10 days from the date of written notice of the hearing date. Failure to comply with this rule shall become a waiver of the objection.

TMCLIR 3.1
HANDLING OF REQUESTS
FOR CONTESTED HEARINGS
AFTER FAILURE TO RESPOND

A. If a defendant who has failed to appear or respond to a notice of infraction, on not more than one occasion, as required by RCW 46.63.070 and Rule 2.4 of the Infraction Rules for Courts of Limited Jurisdiction (IRLJ), requests

that the court set his/her case for a contested hearing, and upon payment of a \$50.00 processing fee, the Clerk of the Court shall be authorized to set a date for a contested hearing, and retrieve/recall FTA's, pleadings and/or correspondence from the Department of Licensing reflecting the failure to respond or appear, if any was sent, on the following conditions:

(1) The defendant, within one week of the date by which a request for a contested hearing should have been received by the court, delivers to the court an envelope containing his/her request for a contested hearing, with a postmark clearly indicating that the envelope was addressed and mailed to the Municipal Court within the time frame for requesting contested hearings pursuant to statute and court rule, and with the envelope indicating that it was returned to the defendant, for whatever reason; or,

(2) The court, within one week of the date by which a request for a contested hearing should have been received by the court, receives in the mail an envelope containing the defendant's request for a contested hearing, with the envelope showing a postmark clearly indicating that the envelope was mailed to the court within the time frame for requesting contested hearings pursuant to statute and court rule.

B. In all other cases, the defendant shall not be entitled to a contested hearing, and the disposition of his/her infraction shall be dealt with as provided for in the statute and/or court rule for failures to respond or appear, or as otherwise determined by the court.

C. If a defendant fails to respond to a notice of infraction within the time frames set forth in 3.0 and 3.1 above, in addition to any amount imposed by the court as a fine, the court may impose a \$50.00 infraction processing fee in addition to the scheduled bail amount or fine set by the court at the time the infraction is adjudicated.

TMCLIR 3.5
DECISION ON
WRITTEN STATEMENTS

A. Traffic infractions may be heard by the court on the basis of written submissions from the City and the defendant. Written submissions must be provided to the court in advance of the date set for contested hearing or mitigation as outlined on the forms provided by the court. Defendant's must use court's mitigation/contested by mail forms.

B. Generally. The court shall examine the citing officer's report and any statement submitted by the defendant. The examination shall take place within 120 days after the defendant filed the response to the notice of infraction. The examination may be held in chambers and shall not be governed by the Rules of Evidence.

C. Factual Determination. The court shall determine whether the plaintiff has proved by a preponderance of all evidence submitted that the defendant has committed the infraction.
D. Disposition. If the court determines that the infraction has been committed, it may assess a penalty and any appropriate and permitted costs.

E. Notice to Parties. The court shall notify the parties in writing whether an infraction was found to have been committed and what penalty, if any, was imposed.

F. No Appeal Permitted. There shall be no appeal from a decision on written statements.

TMCLR 4.0
PROOF OF INSURANCE
